THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8584 of 2005

ORDER:

It appears, the third respondent-District Supply Officer inspected the fair price shop of petitioner at Bhogapuram village on 18.3.2003 and found certain irregularities. Therefore, a show cause notice was issued to the petitioner, who submitted explanation to the said show cause notice. Having not satisfied with the said explanation, the authorisation of the petitioner was cancelled by the third respondent by order dated 29.12.2003. Aggrieved by the same, petitioner filed appeal before the first respondent-Joint Collector. The first respondent by order dated 11.6.2004 dismissed the appeal confirming the orders passed by the third respondent. Aggrieved by the same, petitioner further carried the matter in revision before the second respondent-District Collector. The second respondent also dismissed the revision confirming the orders passed by the respondents 1 and 2. Aggrieved by the same the present writ petition is filed.

There is no necessity of going into all the details. The charges are very simple in nature. They are neither particular nor specific apart from being trivial. The same are extracted as under:

1. "The dealer has failed to maintain stock register in respect of K.Oil from June 2002 to till the date of inspection.
2. 21 rice coupon book lets and 37 K.Oil coupon booklets (undistributed) are in possession of FP Shop dealer.
3. While the enquiry is under process, the dealer has left the FP Shop premise and not turned up until completion of enquiry for obtaining the signature of the dealer, resulting service on the mother".

The petitioner submitted his explanation stating that since there was no supply of kerosene, he did not supply the same for two months and due to drought condition, the cardholders were not in a position to take the same. Thereafter, the third respondent directed him to disburse the stock. There is no variation and malafide intention with regard to stocks. Due to drought, the Mandal Revenue Officer has supplied free coupons to the cardholders and on their request he supplied the same. The third respondent started inspection of his shop from 7 a.m. At the time of inspection, he was not feeling well and his mother was also present there who was helping him. The inspection was completed by 1.00 p.m. After completion of enquiry, the third respondent has obtained the signature of his mother. On the next day, he met the third respondent, who questioned about his whereabouts at the time of inspection, he told that since he is not feeling well, he went to home for taking food and medicines.

The allegations made against the petitioner are not serious in nature and they are trivial. No specific incident has been pointed out seeking explanation of the petitioner, except making general allegations. Unfortunately, the District Collector observed that if kerosene is not delivered by the wholesaler, petitioner should have brought to the notice of the Mandal Revenue Officer, Atchutapuram, but he did not do so for the reasons best known, therefore, it is clearly established that the petitioner has connived with the wholesale kerosene dealer for diversion of kerosene in large scale. No such charge was framed against the petitioner to this effect and the authorities have presumed that the same is on record.

For all the above reasons, the order passed by the third respondent cancelling the authorisation of the petitioner as confirmed by the respondents 1 and 2 are liable to be set aside. However, I am of

the opinion that the period from the date of cancellation of authorisation of petitioner till the date of restoration shall be treated as suspension as a measure of punishment, instead of conducting any further enquiry into the matter.

In the result, the writ petition is allowed and the impugned order passed by the third respondent dated 29.12.2003, including the orders passed by the respondents 1 and 2 dated 11.6.2004 and 19.9.2004 respectively are set aside. The respondents are directed to restore the authroisation of the petitioner forthwith. No order as to costs.

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C.V.RAMULU, J

Date: 18.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

18.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8584 of 2005

Date: 18th September, 2006

Between:

Gudala Naidu

.. Petitioner

And

The Joint Collector,
Visakhapatnam District,

Visakhapatnam & others.

.. Respondents